REMARKS

As a preliminary matter, Applicants respectfully request correction of the correspondence address. The Action was incorrectly mailed to Clark & Elbing (customer no. 21559) rather than to the address associated with customer no. 35139. Clark & Elbing was considerate enough to forward a copy of the Action. Please make the necessary changes to reinstate this application with customer no. 35139, now associated with Pepper Hamilton LLP.

In response to the restriction requirement, Applicants hereby elect, with traverse, Group I, claims 1-20 and 24 and the species of Claim 3, Alzheimer's disease. In doing so, Applicants reserve the right to pursue the subject matter of the non-elected claims in one or more divisional or continuing application(s). Applicants respectfully traverse the restriction requirement. Applicants.

The Office has required restriction among the two allegedly patentably distinct inventions below:

I. Claims 1-20, and 24 drawn to a method of treating neurodegenerative disease or a method of neuroprotection, comprising administering adatanserin or a pharmaceutical salt thereof, classified in class 514, subclass 252.14.

II. Claims 21-23 drawn to a method for treating chronic pain, comprising administering adatanserin or a pharmaceutical salt thereof, classified in class 514, subclass 252.14.

As will be appreciated, §803 of the M.P.E.P. mandates two criteria for a proper requirement for restriction: 1)the inventions must be independent or distinct; and 2)there would be a serious burden on the examiner if restriction is not required. For purposes of initial restriction, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search as defined in M.P.E.P. §808.02. Significantly, however, this *prima facie* burden has

not been met because the Action indicates identical classification of the two groups, even to the sub-class, separate status in the art has not been demonstrated, since groups I and II share at least one common etiology, and the field of search is not unduly burdensome, since both groups require a search for methods of administering adatanserin and its pharmaceutically acceptable salts. Thus, Applicants respectfully submit that a *prima facie* case of serious burden has not been met by the Office.

The claims of both group I and II are directed to methods employing the administration of adatanserin or a pharmaceutical salt thereof. Page 2 of the action indicates that groups I and II are both in class 514 and subclass 252.14. Clearly, the two groups do not have a different classification.

The Action indicates on page 2, that the two inventions are "directed to treating diseases with distinct etiologies and symptoms and have acquired separate status in the art." Applicants' specification, at page 4-5 indicates, however, that neurodegenerative diseases of group I and the chronic pain of group II are both believed to be caused by dysfunctional glutamate release. Thus, although the symptoms of the two groups may differ, they have at least one common etiology. As such, both are treatable through inhibition of glutamate release and have not acquired separate status in the art.

The Action continues, indicating that "the claims read on a multitude of compounds and a variety of disorders, which would require many field of searches that would be an undue burden on the Examiner." Applicants note that each of the claims requires administration of adatanserin or a pharmaceutically acceptable salt thereof. Thus, contrary to the assertion in the Action, the claims do not read on a multitude of compounds, but rather, a single compound and its pharmaceutically acceptable salts. Thus, a search for adatanserin would result in all methods, whether for treating neurodegenerative diseases or chronic pain, using adatanserin.

Accordingly, Applicants respectfully submit that the Office has not met its burden to show that a search of both groups would be unduly burdensome.

Applicants hereby elect the species of claim 3, methods for treating Alzheimer's disease. Claims 1, 2 and 24 are generic to the treatment of Alzheimer's, and claim 3 is the species claim. The remaining claims of group I are drawn to other species. Applicants note that upon indication of an allowable generic claim, the additional species will be entitled to consideration.

The Commissioner is hereby authorized to charge any fee or underpayment thereof or credit any overpayment to deposit account no.50-0436.

Early reconsideration and allowance of all pending claims is respectfully requested. The examiner is requested to contact the undersigned attorney if an interview, telephonic or personal, would facilitate allowance of the claims.

Respectfully submitted,
Pepper Hamilton LLP

/Michael A. Patané/

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Reg. No. 42,982